

IC 8-4.5-6

Chapter 6. Local Participation in Establishment of Recreational Trails

IC 8-4.5-6-1

Authorization

Sec. 1. (a) Subject to this chapter, a corridor may be used for a recreational trail.

(b) A recreational trail may not be authorized under this chapter to be used by motorized vehicles except for the following:

- (1) Vehicles used to maintain or provide security for the trail.
- (2) Vehicles used by persons with disabilities.

(c) A recreational trail may be authorized under this chapter on any part of a corridor that has rail traffic with the consent of the rail traffic operator and owner after consideration of appropriate and safe design and operation.

As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.15.

IC 8-4.5-6-2

Places to file

Sec. 2. Before a corridor in any part of a county may be converted for use as a recreational trail, a responsible party must file the information required by section 3 of this chapter with the following:

- (1) The department of natural resources.
- (2) If any part of the recreational trail is intended to be located in a municipality, with the executive of the municipality.
- (3) If any part of the recreational trail is intended to be located on property not within a municipality, with the county executive of any county in which the recreational trail is intended to be located.

As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.16.

IC 8-4.5-6-3

Information to be filed

Sec. 3. A responsible party must file the following information under section 2 of this chapter:

- (1) A description and map of the proposed recreational trail. The information filed under this subdivision must identify the following:

- (A) The properties for which the responsible party has secured the legal right to use as a recreational trail.
- (B) The properties for which the responsible party has not, at the time of the filing, secured the legal right to use as a recreational trail.

- (2) The name and address of the responsible party. If the responsible party is not an individual, the following information about the responsible party must also be included:

- (A) If the responsible party is a governmental entity, the

following:

(i) The name and address of the individual or body responsible for the administration of the governmental entity.

(ii) The name, address, and head of any agency of the governmental entity that will be responsible for the operation of the recreational trail.

(B) If the responsible party is a corporation of any kind, the officers of the corporation and the address at which legal documents for the corporation may be served.

(C) If the responsible party is a partnership of any kind, the names and addresses of all of the partners.

(D) If the responsible party is any other kind of entity, the name and address of each individual who satisfies the following:

(i) The individual belongs to or is affiliated with the entity.

(ii) The individual has some responsibility for the organization or governance of the entity.

(3) A project concept statement for the recreational trail, including a location map, cross-section, and sketch of the project, detailed enough to generate project cost estimates. The proposed project is not required to be designed before filing, but the concept must be reasonable from a transportation engineering standpoint and detailed enough to generate project cost estimates.

(4) An environmental impact statement, if required by law.

(5) An itemized cost estimate for the total project showing for each item the cost and funding source.

(6) Expenses, including personnel costs, costs of goods and services, contractual services, equipment, utilities, travel, and taxes. The information provided under this subdivision must specifically show expenses for:

(A) trail security;

(B) fencing;

(C) maintenance; and

(D) drainage.

(7) A trail operation agreement under which the responsible party agrees to operate the recreational trail. The trail operation agreement must provide that the responsible party shall grant easements to persons who own adjacent property on both sides of the recreational trail permitting those persons to cross the trail in a reasonable fashion given the use of the adjacent property. The following may require inclusion of other provisions in the trail operation agreement considered advisable:

(A) The department of natural resources.

(B) The executive of a county if an ordinance of the legislative body of the county is required to authorize the recreational trail under this chapter.

(C) The executive of a municipality if an ordinance of the

legislative body of the municipality is required to authorize the recreational trail under this chapter.
As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.17.

IC 8-4.5-6-4

Ordinances for authorization and regulation

Sec. 4. (a) After the responsible party completes the filings required by section 3 of this chapter:

(1) if the entire recreational trail is intended to be located within a municipality, the legislative body of the municipality may adopt an ordinance authorizing the recreational trail within the municipality; or

(2) if subdivision (1) does not apply, the legislative body of each county in which the recreational trail is intended to be located may adopt an ordinance authorizing the recreational trail within the county.

(b) A recreational trail is not authorized until both of the following occur:

(1) One (1) of the following applies:

(A) If the entire recreational trail is intended to be located in a municipality, the legislative body of the municipality adopts an ordinance under subsection (a)(1).

(B) If clause (A) does not apply, the legislative body of each county in which the recreational trail will be located adopts an ordinance under subsection (a)(2).

(2) The department of natural resources approves establishment of the recreational trail.

(c) The legislative body of a municipality or a county may adopt ordinances to regulate the use or operation of the recreational trail.

(d) The department of natural resources may do the following:

(1) Amend the approval given under subsection (b) to regulate the use or operation of the recreational trail.

(2) Authorize a county or a municipality to repeal an ordinance adopted under subsection (b) to revoke authorization of the recreational trail if the responsible party substantially breaches the trail operation agreement.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-6-5

Liability for injury

Sec. 5. (a) A property owner has no duty of care to any person who is using a recreational trail.

(b) This section does not relieve a property owner from liability for injury that is a direct result of the property owner's:

(1) own use of a recreational trail; or

(2) gross negligence or willful or wanton misconduct.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-6-6

Erection of fence

Sec. 6. At the request of a property owner, the responsible party (including a governmental entity), at the responsible party's expense, shall do the following:

- (1) If the responsible party is not a governmental entity, either:
 - (A) post a bond in an amount sufficient to satisfy the responsible party's obligation to erect the fences requested under this section; or
 - (B) establish an escrow account with a financial institution or a person selected by mutual agreement with a property owner that contains sufficient money to erect the fences requested under this section.

The terms of the escrow agreement described in clause (B) must require that the money in the account be dedicated to the provision of the fences requested under this section with the surplus to be returned to the responsible party. The responsible party may post a single bond or establish a single escrow account to provide fences for more than one (1) property owner.

- (2) Erect and maintain fencing between the recreational trail and the property owner's property. The fencing must be in accordance with current fencing standards of the Indiana department of transportation for urban or rural settings, as appropriate to the location of the recreational trail.

As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.18.

IC 8-4.5-6-7**Determination by governmental entity**

Sec. 7. A governmental entity shall determine that the requirements for approval of a recreational trail under this chapter have been satisfied before the governmental entity may do either of the following:

- (1) Participate in the operation of a recreational trail.
- (2) Spend or grant money under its control for a recreational trail.

As added by P.L.40-1995, SEC.3.